



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

January 6, 2010

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED
AND FACSIMILE AT (845) 369-0888

SCS Enterprises Inc.
d/b/a Spy Camera Specialists, Inc.
ATTN: Kenneth Lee
6 Fortune Way
Suffern, NY 10901-3834

Re: File No. EB-08-SE-142

Dear Mr. Lee:

This is an official **CITATION**, issued to SCS Enterprises, Inc., d/b/a Spy Camera Specialists, Inc. ("Spy Camera"), pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act"),¹ for marketing unauthorized radio frequency devices in the United States in violation of Section 302(b) of the Act,² and Sections 2.803 and 15.205(a) of the Commission's Rules ("Rules").³ As explained below, future violations of the Commission's rules in this regard may subject your company to monetary forfeitures.

In March 2008, the Spectrum Enforcement Division of the Enforcement Bureau ("Division") received a complaint alleging that Spy Camera was marketing unauthorized wireless video transmitters that operate in the 1.08, 1.12, 1.16 and 1.2 GHz bands. We initiated an investigation and on May 13, 2008, we sent a Letter of Inquiry ("LOI") to Spy Camera.⁴ In your June 9, 2008 response to our LOI,⁵ you admit marketing⁶ wireless video transmitters beginning in early 2006 on your web site, www.spycameras.com, to end users and resellers. You admit that these wireless video transmitters all operate on 1.2 GHz, which is a restricted frequency band under 15.205(a) of the Rules. You also state that you were surprised to learn that these devices could not be marketed in the United States, and upon receipt of our LOI, immediately returned all the 1.2 GHz transmitters in stock to your supplier and ceased

¹ 47 U.S.C. § 503(b)(5).

² 47 U.S.C. § 302a(b).

³ 47 C.F.R. §§ 2.803 and 15.205(a).

⁴ See Letter from Kathryn S. Berthot, Esq., Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Kenneth Lee, Spy Camera Specialists, (May 13, 2008).

⁵ See Letter from Kenneth Lee, Spy Camera Specialists, to Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission (June 9, 2008) ("Response").

⁶ Section 2.803(e)(4) of the Rules defines "marketing" as "the sale or lease, or offering to sale or lease, including advertising for sale or lease, or importation, shipment or distribution for the purpose of selling or leasing or offering for sale or lease" 47 C.F.R. § 2.803(e)(4).

all purchase and sales of such devices.⁷ On December 12, 2009, Division personnel observed that Spy Camera no longer sells 1.2 GHz wireless video transmitters on its web site.

Section 302(b) of the Act provides that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Commission’s implementing regulations provides that:

[N]o person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless ... [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

Additionally, Section 2.803(g) of the Rules,⁸ provides in pertinent part that:

[R]adio frequency devices that could not be authorized or legally operated under the current rules ... shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.

Intentional radiators,⁹ such as the wireless video transmitters marketed by Spy Camera, are generally required by Section 15.201 of the Rules,¹⁰ to be approved through the certification¹¹ procedures described in Sections 2.1031 – 2.1060 of the Rules¹² prior to marketing within the United States. However, the wireless video transmitters marketed by Spy Camera operate on 1.2 GHz, a restricted frequency band listed in Section 15.205(a) of the Rules.¹³ Therefore, these devices do not comply with the FCC’s technical standards and cannot be certified or marketed within the United States.

Accordingly, it appears Spy Camera Specialists, Inc. has violated Section 302(b) of the Act and Sections 2.803 and 15.205(a) of the Rules by marketing in the United States video transmitter devices not eligible for certification.

⁷ See Response at 2.

⁸ 47 C.F.R. § 2.803.

⁹ An intentional radiator is “[a] device that intentionally generates and emits radio frequency energy by radiation or induction.” 47 C.F.R. §15.3(o).

¹⁰ See 47 C.F.R. § 15.201.

¹¹ A certification is an equipment authorization issued by the Commission based on representations and test data submitted by the applicant. See 47 C.F.R. § 2.907(a).

¹² 47 C.F.R. §§ 2.1031 – 2.1060.

¹³ 47 C.F.R. § 15.205(a). Section 15.205(a) allows intentional radiators to transmit only spurious emissions in the restricted frequency bands. 47 C.F.R. § 2.1 defines spurious emissions as “[e]missions on a frequency or frequencies which are outside the necessary bandwidth and the level of which may be reduced without affecting the corresponding transmission of information. Spurious emissions include harmonic emissions, parasitic emissions, intermodulation products and frequency conversion products, but exclude out-of-band emissions.” The video transmitters listed in your response intentionally transmit radio frequency energy on restricted frequencies.

If, after receipt of this citation, you violate the Communications Act or the Commission's Rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$16,000 for each such violation or each day of a continuing violation.¹⁴

You may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or (2) a written statement. Your response should specify the actions that you are taking to ensure that you do not violate the Commission's rules governing the marketing of radio frequency equipment in the future.

The nearest Commission field office appears to be the New York District Office, in New York, New York. Please call Peter Waltonen, Esq., at (202) 418-0097 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:

Kathryn Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission
445-12th Street, S.W., Rm. 3-C366
Washington, D.C. 20554

Under the Privacy Act of 1974,¹⁵ 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment.¹⁶

Thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission

¹⁴ See 47 C.F.R. § 1.80(b)(3).

¹⁵ 5 U.S.C § 552(a)(c)(2).

¹⁶ See 18 U.S.C. § 1001.